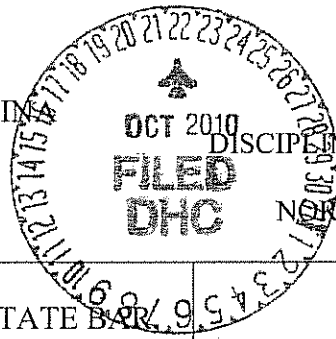


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
10 DHC 37

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

THEOPHILUS O. STOKES, III, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Theophilus O. Stokes, III ("Stokes"), was admitted to the North Carolina State Bar in 1984, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Stokes was engaged in the practice of law in the State of North Carolina and maintained a law office in Greensboro, Guilford County, North Carolina.

4. During all or part of the relevant periods referred to herein, Stokes maintained an attorney trust account at First Citizens Bank, account number ending in 0689.

#### FIRST CLAIM FOR RELIEF

5. Paragraphs 1-4 are incorporated as if fully set out herein.

6. Stokes had an association with Terrell Raynor ("Raynor") such that Stokes utilized his trust account at First Citizens Bank to receive and disburse money for Raynor

in matters that appear unrelated to any legal services, for example: 1/ receiving and disbursing money for the down-payment for the purchase of a car for Raynor in March 2006; and 2/ receiving and disbursing money for a personal loan to Raynor from Walter Brower in April 2006.

7. Raynor was a former client of Stokes. Stokes represented Raynor in 1995 in a criminal matter concerning worthless check offenses, of which Raynor was found guilty.

8. Stokes was also involved in an entertainment business venture with Raynor. Raynor utilized an entity named Zanza in this entertainment venture. Stokes referred to his part of the entertainment project as "TOPS."

9. On May 19, 2006, Raynor gave Stokes a \$35,000.00 check from the Zanza bank account (hereinafter "the May 19 Zanza check") at SunTrust Bank and Stokes gave Raynor a \$35,000.00 check from Stokes' First Citizen Bank Trust account (hereinafter "the May 19 Stokes trust account check"). The May 19 Stokes trust account check had "TOPS" written in the memo line.

10. Raynor deposited the May 19 Stokes trust account check into the Zanza bank account at SunTrust Bank. Stokes deposited the May 19 Zanza check into his trust account at First Citizens Bank.

11. The May 19 Zanza check from Raynor and the May 19 Stokes trust account check were dated the same date and were deposited on the same date within the same hour.

12. Immediately after depositing the May 19 Stokes trust account check into the Zanza bank account on May 19, 2006, which SunTrust provisionally credited to the account on that date, Raynor wired \$30,000.00 to New York from the Zanza account.

13. The \$30,000.00 sent to New York was needed for a concert Raynor and Stokes were promoting at that time.

14. The Zanza bank account did not have sufficient funds for that \$30,000.00 wire to New York before the provisional credit given by the bank for the deposit of the May 19 Stokes trust account check on May 19, 2006.

15. In this manner, Stokes assisted Raynor in obtaining \$30,000.00 from their fraudulent exchange of checks on May 19, 2006.

16. Although SunTrust credited \$35,000.00 as a deposit to the Zanza account on May 19, 2006 from the May 19 Stokes trust account check, the May 19 Zanza check to Stokes was not processed and deducted from the Zanza account by SunTrust until May 22, 2006. Additional funds were deposited into the Zanza account on May 22, 2006, providing sufficient funds to support payment of the May 19 Zanza check to Stokes. Without this deposit of additional funds on May 22, 2006, there would not have been sufficient funds in the Zanza account to honor the May 19 Zanza check to Stokes.

17. Four days later, on May 23, 2006, Stokes and Raynor again exchanged checks. Raynor gave Stokes a \$45,000.00 check from the Zanza bank account and Stokes gave Raynor a \$45,000.00 check from Stokes' First Citizen Bank Trust account.

18. Raynor deposited Stokes' \$45,000.00 trust account check into the Zanza bank account at SunTrust Bank. Stokes' deposited the Zanza \$45,000.00 bank account check into his First Citizens Bank trust account.

19. The Zanza check from Raynor and the trust account check from Stokes were dated the same date and were deposited on the same date within the same hour.

20. SunTrust Bank honored the \$45,000.00 check from the Zanza account deposited into Stokes' trust account.

21. First Citizens Bank did not honor the \$45,000.00 check from the Stokes' trust account deposited into the Zanza account.

22. As a result, Stokes had an excess \$45,000.00 in his First Citizens Bank trust account from his and Raynor's fraudulent exchange of \$45,000.00 checks.

23. SunTrust Bank asked Stokes to refund the \$45,000.00 to SunTrust Bank, which suffered the loss as a result of First Citizens Bank refusing to honor the \$45,000.00 trust account check.

24. Instead of giving SunTrust Bank the full \$45,000.00, however, Stokes only gave SunTrust \$32,000.00 from Stokes' First Citizens Bank trust account.

25. Stokes disbursed the remaining \$13,000.00 to himself by official check. The check was endorsed by Stokes and then by Walter Brower. It thus appears Stokes signed this \$13,000.00 check over to Walter Brower, who is affiliated with Raynor.

26. In this manner, Stokes assisted Raynor and/or his associate Brower in obtaining \$13,000.00 from their fraudulent exchange of checks.

27. On February 26, 2010 Raynor pled guilty to multiple offenses, including a Conspiracy to Obtain Property by False Pretenses charge involving the exchanges of the \$35,000.00 and \$45,000.00 checks described above.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows: by engaging in fraudulent check exchanges with Raynor, Stokes engaged in fraudulent conduct in violation of Rule 8.4(c) and assisted Raynor in engaging in fraudulent, criminal conduct in violation of Rule 8.4(a), (b), and (c).

#### SECOND CLAIM FOR RELIEF

28. Paragraphs 1-27 are incorporated as if fully set out herein.

29. On April 26, 2006, \$31,000.00 from "R.M.G. Asst, LLC" (hereinafter "RMG") for Raynor was deposited into Stokes' trust account at First Citizens Bank.

30. The same day, trust account check number 2074 from Stokes' First Citizens Bank trust account cleared the account, disbursing \$31,000.00 to Raynor.

31. The \$31,000.00 check from RMG was returned for insufficient funds ("NSF") on May 2, 2006, resulting in the deduction of another \$31,000.00 from Stokes' trust account.

32. On May 2, 2006, Stokes should have been maintaining a balance in his trust account of at least \$19,022.59 for the following clients: Jorge Ramos, Antonio Ruiz, Maria Ruiz, Nellida Maria Ruiz, Marthina Salinas, and Bettie White.

33. Because RMG's \$31,000.00 check was returned for insufficient funds, Stokes had insufficient funds in his trust account for these clients.

34. Despite notification of this NSF return and resulting deficit, Stokes failed to reimburse the \$31,000.00 to his trust account.

35. On May 5, 2006, \$74,000.00 from Terrell Raynor and Tyson Raynor was deposited into Stokes' trust account at First Citizens Bank.

36. On the same day, trust account check number 2075 from Stokes' First Citizens Bank trust account cleared the account, disbursing \$10,000.00 to T.L. Raynor.

37. On May 8, 2006, trust account check number 2076 from Stokes' First Citizens Bank trust account cleared the account, disbursing \$55,000.00 to Terrell Raynor.

38. On May 8, 2006, Stokes should have been maintaining \$19,022.59 in entrusted funds for clients Jorge Ramos, Antonio Ruiz, Maria Ruiz, Nellida Maria Ruiz, Marthina Salinas, and Bettie White in his First Citizens Bank trust account.

39. After disbursing the \$55,000.00 to Terrell Raynor, Stokes had insufficient funds in his trust account for these clients.

40. Stokes' First Citizens Bank trust account was closed by First Citizens Bank on June 19, 2006, at which time Stokes took the balance in the account of \$21,283.91 and deposited into a new trust account at SunTrust Bank, account number ending with 6128.

41. When Stokes transferred this \$21,283.91 from the First Citizens Bank trust account to the SunTrust Bank trust account in June 2006, \$19,022.59 of this balance was entrusted funds being held for clients Jorge Ramos, Antonio Ruiz, Maria Ruiz, Nellida Maria Ruiz, Marthina Salinas, and Bettie White.

42. On August 2, 2006, Stokes disbursed \$5,000.00 from his SunTrust Bank trust account to his operating account at SunTrust and disbursed an additional \$5,000.00 from his SunTrust Bank trust account to Raynor.

43. At that time, however, Stokes did not have sufficient funds in his SunTrust Bank trust account for himself or Raynor to support these two \$5,000.00 disbursements.

44. These disbursements resulted in the SunTrust Bank trust account having a balance of \$11,283.97 on August 2, 2006.

45. At that time, Stokes should have been maintaining \$19,022.59 in entrusted funds for clients Jorge Ramos, Antonio Ruiz, Maria Ruiz, Nellida Maria Ruiz, Marthina Salinas, and Bettie White in his SunTrust Bank trust account.

46. On December 13, 2006, \$8,500.00 from Tramaine Brown (hereinafter "Brown") was deposited into Stokes' trust account at SunTrust Bank. The same day, trust account check number 3008 from Stokes' SunTrust Bank trust account cleared the account, disbursing \$8,500.00 to Stokes.

47. The \$8,500.00 check from Brown was returned for insufficient funds on December 18, 2006. As a result, SunTrust Bank deducted another \$8,500.00 from Stokes' SunTrust Bank trust account.

48. On December 18, 2006, Stokes should have been maintaining a balance in his trust account of at least \$22,522.59 in entrusted funds for clients Jorge Ramos, Antonio Ruiz, Maria Ruiz, Nellida Maria Ruiz, Marthina Salinas, Bettie White, and an additional client in the Vengas-Soto case.

49. As a result of \$8,500.00 check from Brown being returned NSF and the prior improper disbursements of \$5,000.00 each, Stokes had insufficient funds in his trust account for these clients on December 18, 2006.

50. On February 2, 2007, \$50,000.00 was deposited into Stokes' SunTrust Bank trust account for client Nicholas Johnson. \$47,198.32 of those funds was disbursed from the trust account for Mr. Johnson's benefit. Stokes should have been maintaining the remaining \$2,697.42 for Mr. Johnson in trust since that time.

51. On March 1, 2007 SunTrust Bank placed a hold on Stokes' SunTrust trust account. No activity occurred in that account since that date.

52. On March 1, 2007, Stokes' SunTrust Bank trust account had a balance of \$13,501.55.

53. On March 1, 2007, Stokes should have been maintaining \$21,720.01 in that trust account for clients Jorge Ramos, Antonio Ruiz, Maria Ruiz, Nellida Maria

Ruiz, Marthina Salinas, Bettie White, and Nicholas Johnson.<sup>1</sup>

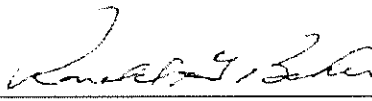
THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

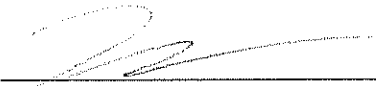
- a) By failing to maintain a sufficient balance in his trust accounts to account for entrusted funds he should have been maintaining for clients, Stokes failed to maintain entrusted funds in violation of Rule 1.15-2(a) and disbursed client funds in a manner not directed by those clients in violation of Rule 1.15-2(m); and
- b) By disbursing \$5,000.00 to himself and \$5,000.00 to Raynor from his SunTrust Bank trust account when Stokes did not have funds in the trust account for Raynor or for such purpose, Stokes failed to maintain entrusted funds in violation of Rule 1.15-2(a), disbursed client funds in a manner not directed by those clients in violation of Rule 1.15-2(m), personally benefitted from entrusted funds in violation of Rule 1.15-2(j), and misappropriated entrusted funds in violation of Rule 8.4(b) and (c).

WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and actual costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

The 22<sup>nd</sup> day of October 2010.

  
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Ronald G. Baker, Sr., Chair  
Grievance Committee

  
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Jennifer A. Porter  
Deputy Counsel  
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The North Carolina State Bar  
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919-828-4620  
Attorney for Plaintiff

<sup>1</sup> The funds for the client in the Vengas-Soto case had been previously disbursed.